

**PB 2312 ZNG**

**DRAFT ZONING BYLAW AMENDMENT - FIREARM BUSINESSES**

**ARTICLE \_\_: AMEND ZONING BYLAW SECTION 10.2, SECTION 6 (BY CREATING SECTION 6.6), AND APPENDIX A**

**SECTION 6.6 FIREARM BUSINESSES**

**6.6.1 Purpose.**

To regulate the location, siting, design, placement, security, safety, monitoring, and modifications of Firearm Businesses, as defined herein, within the Town of Westford, and to enumerate criteria for the establishment of Firearm Businesses in Town to address public safety concerns arising from the use of land, buildings, and structures for the operation of such businesses, and the potential disruption of peace and quiet enjoyment of the community. This Section provides for separation between Firearm Businesses and certain other uses enumerated in the Town's Zoning Bylaw in order to maximize protection of public health, safety, and welfare in conjunction with the protections afforded by G.L. c. 140, §122-131Y and other State laws and regulations.

**6.6.2 Compatibility with State and Federal Laws and Regulations.**

The Zoning Bylaw provisions pertaining to Firearm Businesses are not intended to supersede Federal or State laws or regulations except to the extent that any such laws or provisions allow a municipality to adopt standards more stringent than the minimum standards provided in such laws and regulations.

**6.6.3 Applicability and Authority.**

1. Firearm Business uses are not included within the definition of Retail Sales, General Service Establishment, Light Manufacturing, or any other lawful use permitted as-of-right or by special permit pursuant to other sections of this Zoning Bylaw.
2. The use of land, building, or structures for Firearm Businesses shall only be allowed by special permit in districts as specified in Appendix A – Table of Principal Use Regulations, subject to the requirements and criteria set forth herein. Firearm Businesses are also subject to site plan review by the Planning Board in accordance with Section 9.4.
3. Firearm Businesses shall not be considered or allowed as accessory uses to any other use.
4. A Firearm Business shall only be located within the building and/or unit specified in the special permit and said special permit shall only be for the specific Firearm Business approved. A Firearm Business is prohibited from sub-leasing space to another Firearm Business.
5. No Firearm Business shall commence operation until all necessary Federal, State, and other required local approvals and licenses are obtained.
6. The Planning Board shall be the Special Permit Granting Authority (SPGA) for Firearm Businesses. The SPGA may deny or approve with conditions all such applications as governed under this bylaw.

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#### **6.6.4 Exemptions.**

This Section is not intended to apply to facilities owned and operated by nonprofit sports or social membership clubs containing one or more elements of a Firearm Business, such as a Firing Range.

This Section is not intended to apply to any business for which site plan approval was obtained prior to the date of enactment of this Section.

#### **6.6.5 Location.**

1. No special permit for a Firearm Business shall be granted where such Firearm Business would be located within 500 feet of:
  - a. A school, including a public or private elementary, vocational or secondary school, or a public or private college, junior college, or university;
  - b. A Child Care Center as defined in M.G.L. c. 15D Section 1A;
  - c. Any facility where the SPGA finds that the primary purpose is to serve persons under age 18 (children) who commonly congregate to participate in scheduled and structured activities. The following criteria may be considered by the SPGA when determining applicability of this section:
    - i. Whether children congregate at a specific place according to a schedule;
    - ii. How frequently children congregate at the specific location in such scheduled and structured activities;
    - iii. Whether the purpose of congregating is for an activity designed for or geared toward children;
    - iv. Whether the children congregate in groups of ten (10) or more; and
    - v. Information contained within the purpose sections of Business Certificates (DBAs) and/or Articles of Organization filed with the Corporations Division of the Secretary of the Commonwealth of Massachusetts;  

This section is not intended to apply to one-on-one instructional services (such as music and arts instruction and tutoring services) or facilities such as ice cream shops where children may happen to congregate, but not in a structured, scheduled manner;
  - d. A religious use including but not limited to a church, synagogue, mosque, or temple, or other religious use; or
  - e. An existing Firearm Business.
2. For purposes of this section, setback distances for 6.6.5.1.a-d shall be measured in a straight line from the nearest point of the structure, or unit within a multi-tenant structure, within which the Firearm Business would operate to the nearest property line of a lot containing any of the above-listed uses. However, setback distances for 6.6.5.1.e shall be measured from the nearest point of the structure, or unit within a multi-tenant structure, within which the Firearm Business would operate to the nearest point of a structure, or unit within a multi-tenant structure, in which an existing Firearms Business is located.

3. The commencement of one or more of the above uses within the required setback distance to a proposed Firearm Business shall not invalidate or disallow a special permit allowing a Firearm Business, provided that the initial special permit application for a Firearm Business was received (date of submittal) prior to the commencement of said use.
4. The SPGA may waive the setback requirement by a supermajority (2/3) vote as part of the issuance of a special permit provided that:
  - a. The application is for a new applicant (change of applicant) for an existing Firearm Business;
  - b. The application is for adding another element of service to an existing Firearm Business;
  - c. The application is for a new Firearm Business proposed in a location on the same lot as an existing Firearm Business, provided there is sufficient separation between the units and/or buildings to meet the intent of 6.6.5.1.e;
  - d. The Applicant demonstrates that one or more of the Firearm Business types (Firearm Dealer, Firing Range, Gunsmith) would otherwise effectively be prohibited within the Town; or
  - e. That the project can be conditioned to reasonably satisfy the purpose and intent of the setback requirements.

#### **6.6.6 Special Permit Application and Procedure.**

A special permit for Firearm Businesses shall be valid only for the applicant to which the special permit was granted, and only for the lot (or unit) on which the Firearm Business was authorized. In addition to the procedural and application requirements of Section 9.3, a special permit application for a Firearm Business use shall include, at a minimum, the following information:

1. **Description of Activities:** A narrative providing information about the specific type and scale of all activities that will take place on the proposed site including, but not limited to, whether the Firearm Business will include the following:
  - a. Purchase and sale of Firearms;
  - b. Purchase and sale of Firearm Accessories;
  - c. Purchase and sale of Ammunition;
  - d. Gunsmithing; and
  - e. Firing Range.
2. **Lighting Plan:** A lighting plan showing the location of existing and proposed lights on the building and the lot.
3. **Context Map:** A map depicting all properties and land uses within a minimum 500-foot radius of the lot. The context map shall include the measured distance to all uses described in Section 6.6.5 above, and shall be certified by a design professional such as an architect, engineer, or land surveyor.
4. **Description of Ownership, Management, and Employees:** The name and address of the legal owner of the lot and the Firearm Business. The name and address of all persons having any legal, beneficial, equitable, or security interests

in the establishment. The name, address, and phone number for an emergency 24/7 contact. In the event that a corporation, partnership, trust, or other entity is listed, the name and address of every person who is an officer, shareholder, member, manager, or trustee of the entity must be listed. The name, address, phone number, and email address of the manager(s) and assistant manager(s).

5. **Comprehensive Signage Plan:** The applicant shall submit a comprehensive signage plan detailing all proposed signage on the building and lot in connection with the Firearm Business. Graphics, symbols, or images of Firearms, Ammunition, or Firearm Accessories displayed or clearly visible from the exterior of the Firearm Business shall be allowed only if the SPGA determines that such signage would not be inconsistent with any of the specific criteria herein.
6. **Security, Operations, and Management Plans submitted to the Police Department:** Confirmation from the Police Department that the applicant has submitted their security, operations, and management plans to the Police Department. Said plans, for security reasons, shall not be submitted to the SPGA. Prior to issuance of a special permit, the SPGA shall receive confirmation from the Police Chief or their designee that those plans have been preliminarily approved, along with any additional information as requested by the SPGA or that the Chief of Police or their designee deems relevant to the application.

#### **6.6.7 Special Permit Criteria.**

As part of the grant of a special permit for a Firearm Business, the SPGA shall find, in addition to the general special permit criteria listed in Section 9.3.2, that the following criteria are also met:

1. That the site is laid out such that it provides for convenient, safe, and secure access and egress for customers, clients, employees, and deliveries arriving to and leaving from the lot.
2. That the establishment will have adequate and safe storage, security measures, and lighting system, and that their security, operations, and management plans are to the satisfaction of the Police Department.
3. That loading, refuse, and service areas are designed to be secured and shielded from abutting uses.
4. That all signage has been reviewed and approved as to letter size, color, and design per Section 5.3, to ensure mitigation of impact to the surrounding neighborhood, consistent with applicable Federal and State laws.
5. That the use will not result in adverse impacts due to noise, hazardous materials, or air quality.
6. That unless waived, all the conditions and requirements in this section have been satisfied.

#### **6.6.8 Operational Requirements.**

1. Firearm Businesses shall obtain and maintain all necessary Federal, State, and other required local approvals and licenses prior to beginning operations, including, but not limited to, valid, current State licenses issued pursuant to G.L. c. 140, § 122 & 122B, as applicable.

2. Firearm Businesses shall comply with all applicable Federal, State, and local laws and regulations in the operation of their business. Violations of Federal, State, and/or local laws, regulations, and/or requirements may result in suspension or revocation of the special permit.
3. The hours of operation for a Firearm Businesses shall not adversely impact nearby uses. The hours of operation shall follow all State statutory and regulatory requirements, but in no case shall any Firearm Businesses be open to the public before 9:00 a.m. or remain open to the public after 7:00 p.m.
4. Concurrently with submission of the application for a special permit, all Firearm Businesses shall submit security, operations, and management plans to the Westford Police Department for review and preliminary approval. Review and approval of the security plan may include an inspection of the proposed site by the Police Department. The plan must include, but may not be limited to, the following:
  - a. Proposed provisions for security.
  - b. A trained employee shall check identification and compliance with age restrictions prior to customers entering the establishment.
  - c. The physical layout of the interior, including a demonstration that the size of the store is not so excessive so as to create issues with site security and video monitoring.
  - d. After-hours storage of all firearms in locked containers or by otherwise securing the firearms with tamper-resistant mechanical locks.
  - e. The number of employees.
5. Concurrently with the submission of the special permit application, all Firearm Business applicants shall submit security, operations, and management plans to the Westford Police Department for review and approval.
6. All Firearm Businesses shall conduct criminal background checks for all employees in accordance with State law.
7. Firearm Businesses shall videotape the point of sale of all firearms transactions and maintain videos for a minimum period of three (3) years to deter illegal purchases and monitor employees.
8. No Firearm Business may commence until after the security measures have been installed and inspected to the satisfaction of the Police Department.
9. No Firearm Business shall commence until after the applicant has provided proof of insurance, executed by an insurance company, that insures the applicant against liability for damage to property and for injury to, or death of, any person because of the theft, sale, lease, or transfer of a Firearm or Ammunition, or any other operation of the Firearm Business. Limits of liability shall not be less than \$1,000,000 for each incident of damage to property and for injury or death to a person. The insurance policy must have a provision requiring that written notice be provided to the Planning Board at least thirty (30 days) prior to cancellation.

#### **6.6.9 Limitation on Number of Firearm Businesses in Town.**

To address public safety concerns arising from multiple Firearm Businesses operating at the same time, and the potential disruption of peace and quiet enjoyment by the community, at any time there shall be no more than four (4) existing special permits allowing Firearm Businesses to operate within Westford.

For purposes of this Section, a single Firearm Business, even if providing multiple elements of service (such as a Firearm Dealer and Gunsmith) shall constitute one (1) Firearm Business. Pursuant to Section 6.6.4, facilities owned and operated by nonprofit sports or social membership clubs containing one or more elements of a Firearm Business, such as a Firing Range, shall not count towards the total number of Firearm Businesses allowed to operate in Town.

It is not the intent of this Section to prohibit the lawful acquisition of Firearms and Ammunition, the lawful maintenance of Firearms through Gunsmith services, or the lawful practice and training in the use of Firearms within the Town of Westford. Therefore, notwithstanding the restriction on the total number of Firearm Businesses set forth above, in the event that the limit of four (4) special permits is reached, the SPGA may waive this limitation upon a finding by supermajority (2/3) vote that the proposed Firearm Business would provide service as a Firearm Dealer, Firing Range, or Gunsmith, where such service is not yet being provided by any of the then-existing Firearm Businesses in Town.

#### **6.6.10 Lapse.**

Special permits issued for Firearm Businesses shall be limited to the applicant and shall lapse if the permit holder ceases operation or transfers ownership of the operation of the Firearm Business.

#### **6.6.11 Severability.**

The provisions of the Bylaw are severable. To the extent this section or any related section can be read to potentially conflict with G.L. c. 140 or other State laws or regulations, the section shall be interpreted to minimize any conflict with State laws or regulations while maximizing the furtherance of the public safety and other public purposes underlying this Section. The invalidity of any Section or provision of this Zoning Bylaw shall not invalidate any other Section or provision hereof.

### **Definitions to be added to Section 10.2 – General Definitions**

**Ammunition:** As defined or amended by State statute or regulations, cartridges or cartridge cases, primers (igniters), bullets, tear gas cartridges, or propellant powder designed for use in any Firearm. For the purposes of this definition, “Firearm” is to have the meaning prescribed in this Bylaw, and shall include, but not be limited to: Firearms (as that term is defined in G.L. c. 140, §121), rifles, or shotguns.

**Firearm:** Any device designed or modified to be used as a weapon capable of firing a projectile using an explosive charge as a propellant, including but not limited to guns, pistols, shotguns, and rifles.

**Firearm Accessory:** Any device designed, modified, or adapted to be inserted into or affixed onto any Firearm to enable, alter, or improve the functioning

or capabilities of the Firearm or to enable the wearing or carrying of a Firearm.

**Firearm Business:** Any of the following uses:

- a. **Firearm Dealer:** A retail or wholesale operation involving the purchase or sale of Firearms, Ammunition, and/or Firearm Accessories.
- b. **Firing Range:** A commercial facility designed for Firearm(s) training and/or shooting practice.
- c. **Gunsmith:** Any retail operation involving the repairing, altering, cleaning, polishing, engraving, bluing, assembling, or performing of any mechanical operation on any Firearm.

**Proposed Changes to Appendix A - Table of Principal Use Regulations**

<b>Other Commercial Uses, cont'd</b>	<b>RA</b>	<b>RB</b>	<b>B</b>	<b>BL</b>	<b>CH</b>	<b>IH</b>	<b>IA</b>	<b>IB</b>	<b>IC</b>	<b>ID</b>
26. Firearm Business	N	N	N	N	SPB	SPB	N	N	N	N